

In the Honorable Supreme Court of the Republic of Liberia  
Sitting in its March Term, A.D. 2022

BEFORE HIS HONOR: FRANCIS S. KORKPOR, SR.....CHIEF JUSTICE  
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE  
BEFORE HER HONOR: SIE-A-NYENE G. YUOH.....ASSOCIATE JUSTICE  
BEFORE HIS HONOR: JOSEPH N. NAGBE.....ASSOCIATE JUSTICE  
BEFORE HIS HONOR: YUSSIF D. KABA.....ASSOCIATE JUSTICE

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Exodus Wamah and Justice Dolo, Jr. of Sanniquellie & Ganta .....	Appellants	)	
		)	
VERSUS		)	<u>APPEAL</u>
		)	
Republic of Liberia.....	Appellee	)	
		)	
<u>GROWING OUT OF THE CASE:</u>		)	
		)	<u>CRIMES:</u>
Republic of Liberia.....	Plaintiff	)	CRIMINAL CONSPIRACY,
		)	MURDER, TAMPERING,
VERSUS		)	WITH PHYSICAL
		)	EVIDENCE AND
Exodus Wamah, Justice Dolo, Jr. Emmanuel, Rita Mamie Wuo, and others to be identified, all of Sanniquellie & Ganta .....	Defendants	)	CRIMINAL FACILITATION
		)	

Heard: March 30, 2022,

Decided: September 23, 2022

MR. JUSTICE KABA DELIVERED THE OPINION OF THE COURT

On March 14, 2017, Mr. Henry Hodge, the Regional Director of the National Social Security & Welfare Corporation (NASSCORP) in Nimba County, informed the police that his deputy, Ms. Viola Richmond Thompson (hereinafter known as Ms. Thompson) had not reported to work or been seen in public from Friday, March 10, 2017. Based on this information the police proceeded to the house and discovered the entire building locked up as reported by the Regional Director with foul scent engulfing the surrounding area. The police opened the door and upon entry into the building discovered that the building was vandalized and they saw the body of Ms. Thompson lying naked in a pool of blood. Her ward, Annie Moore Johnson was also seen naked with both hands tied and her decomposing body forced face down in a barrel of water.

Following police investigation into the suspicious death of the victims, the appellants, Exodus Wamah and Justice Dolo, Jr. were arrested between March 19 and 21, 2017, and subsequently charged with the crimes of murder, a felony of the first degree, criminal conspiracy, a felony of second degree, and criminal facilitation, a felony of third degree pursuant the *Penal Law Revised Code: 26:14.1, 26:10.1(4) and 26:10.2(3)*, respectively. The fiancée of co-appellant Exodus Wamah, Rita Mamie Wuo, was also arrested and charged with the crime of Tampering with Physical Evidence in violation of *Penal Law Revised Code: 26:12.42*. The prosecution later entered a plea of *nolle prosequi* in favor of co-defendant Rita Mamie Wuo who later testified for the State. The appellants were forwarded to the Eighth Judicial Circuit for Nimba County where they were apprised of their constitutional rights and ordered remanded to the Sanniquellie Central Prison.

During the May Term A. D. 2017, the Grand Jurors for the said Circuit Court, upon deliberation, returned a true bill against the appellants and others charging them as follows:

“The grand Jurors for Nimba County, Republic of Liberia, upon oath do hereby find more probably than not, that, Exodus Wamah, Justice Dolo, Jr., Emmand, Rita Mamie Wuo and others to be identified did conspire to, and did do commit the crimes of Criminal Conspiracy and Murder, in violation of Chapter 10, Section 10.4 (1) (2) (3) (4) and Chapter 14, Subchapter A, Section 14.1 (1) (b) respectively of the New Penal Law of Liberia, Title 26, Liberian Codes in the form and manner as follows to wit:

1. That, on March 19 to 21, 2017, Defendants Exodus Wamah and Justice Dolo, Jr., all residents of Ganta and Sanniquellie, Nimba County and Republic aforesaid, were arrested with their Miranda/Constitutional Rights acquainted them. Investigated and subsequently charged with Criminal conspiracy and Murder, in violation of chapter 10, section 10.4 (1) (2) (3) (4) and chapter 14, subchapter A, section 14.1 (a) (b) of the New Penal Law of Liberia, based upon the gruesome murdered of victims. Violet Richmond Thompson and a 13-year-old girl, Annie Johnson Moore on March 11, 2017, in their apartment located in Ganta City, Nimba County.

2. That, on the 14<sup>th</sup> of March 2017, the police in Ganta City, Nimba County received information from the Regional Director of the National Social Security and Welfare Cooperation (NASSCORP) that, victim Violet Richmond Thompson left her workplace in Ganta City, Nimba County for home and since then, she has not reported to work.
3. Predicated upon said information, a team of officers headed by Detective Arthur S. Gehmuson proceeded at the victim's residence located in Peace Community, vicinity of Ganta City, and county aforesaid, and met the entire building locked and an unpleasant odor was coming from the house. Based upon said situation, a welding machine was brought and used to open the iron door or gate to enter the house; during the process, they (officer) saw victim Violet Richmond Thompson lying in a pool of blood in her Master Bed Room floor, while her ward, a 13 year old girl Annie Johnson Moore was seen outside down in a pig foot drum or barrel full of water with both hands tied behind her with a piece of cloth.
4. During police investigation conduct, it was established that, the now decedent Violet Richmond Thompson was an Employee of the National Social Security & Welfare Corporation (NASSORP) assigned in Ganta and serving in the capacity as Deputy Regional Directrix, and the victim and 13 year old Annie Johnson Moore lived in an apartment owned by Mr. Fred Karnue located at Peace Community in Ganta City, Nimba County and also that, on March 10, 2017, the victim was spotted at the GN Bank at Ganta where she withdrew US\$50.00 to transport her son (Late) to Monrovia.
5. The investigation further established that, the victim had two ex-boyfriends, Jamel K. Moore and Exodus Wamah, who are residents of Ganta and Sanniquellie, Nimba County. It was also established that Exodus Wamah did call the victim when he was in contact with her prior to her death five separate times as expressed in the call log, whereby, Exodus had earlier denied calling the victim or having any contact with her since October and November 2016; it was further unearthed by the securities that, on March 21, 2017, the deceased Lone Star GSM Sim Card Number 0888265746 was in possession of co-

defendant Justice Dolo, Jr. which was used in a phone that was snatched from a police officer assigned in Ganta, Nimba County and said phone was identified by the officer.

6. It was further revealed that during the night of March 10, 2017, victim Violet Richmond Thompson and Annie Johnson Moore were killed in their apartment by an unknown person/s and absconded; and it was also established that, the defendants, Exodus Wamah, Justice Dolo, Emman and others, did conspire with criminal motives and committed the crime of murder. The two of the defendants, Exodus Wamah and Justice Dolo, Jr. were arrested whilst the others are still at large.
7. That Title 26, chapter 10, section 10.4, provides that:

**Criminal Conspiracy:-**

1. Offense. A person is guilty of conspiracy to commit a crime if, with the purpose of promoting or facilitating its commission, he agrees with one or more persons to engage in or cause the performance of conduct which constitutes a crime, and any one or more of such persons does an act to affect the object of the conspiracy.
2. The scope of conspiratorial relationship. If a person knows that one with whom he agreed or will agree with another to effect the same objective, he shall be deemed to have agreed with the other, whether or not he knows the other's identity.
3. Conspiracy with multiple criminal objectives. If a person conspired to commit a number a number of crimes, he is guilty of only one conspiracy so long as such multiple crimes are the object of the same agreement or continuous conspiratorial relationship.
4. Duration of conspiracy. A conspiracy shall be deemed to continue until the crime which is its object is committed or the agreement that it be committed is abandoned by the defendant and by those with whom he conspired. A conspiracy shall be deemed to have been committed by any conspirator during the applicable period of limitations.

If an individual abandons the agreement, the conspiracy is terminated as to him only if and when he timely advises those with whom he was agreed of his abandonment or by timely informing a law enforcement officer of the existence of the conspiracy.

THAT Title 26, Chapter 14, section 14.1. Provides that: Offense. Murder, a person is guilty of murder if he:

- (a) Purposely or knowingly causes the death of another human being; or
  - (b) Cause the death of another human being, under circumstances manifesting extreme indifference to the value of human life. A rebuttable presumption that such indifference exist arises if the defendant is engaged or is an accomplice ager committing or an attempt to commit, or flight after committing or attempting to commit, treason, offenses defined in sections 11.2 or 11.3 of this Title, espionage, robbery, burglary, kidnapping, felonious restraint, arson, rape, aggravated involuntary sodomy, escape, piracy, or other felony involving force or danger to human life. MURDER is a felony of the first degree but a person convicted of murder may be sentenced to death or life imprisonment as provided in sections 50.5 and 51.3.
8. That the plaintiff says that the defendants have no affirmative defense in the premises.

### **COUNT TWO (2)**

The Grand Jurors for Nimba County, Republic of Liberia, upon oath do hereby find more probably than not that, defendant, Rita Mamie Wuo, committed the crime of Tampering with Physical Evidence and Criminal Facilitation and Criminal Conspiracy, to wit: In violation of Section 12.42, 10.4 and 10.2 of the Penal Law of Liberia.

1. That on April 1, 2017, defendant Rita Mamie Wuo was arrested and informed/acquainted with her Miranda or Constitutional Rights and duly charged with multiple charges of criminal conspiracy, Tampering with physical Evidence and Criminal Facilitation, in violation of

sections 12.24, 10.4 & 10.2 of the New Penal Law of Liberia, in form and manner as follows to wit:

2. That, on the 11<sup>th</sup> day of March 2017, victim Violet Richmond Thompson and her ward Annie Johnson Moore were gruesomely murdered in their apartment located at Ganta, Nimba County. According to information, defendant Rita Mamie Wuo, girlfriend to defendant Exodus Wamah was in possession of the now deceased's properties that were taken from her apartment by the defendants, Exodus Wamah after her murder and same were given to Rita for safe keeping. During police thorough and professional investigation conducted, the following items, personal and lawful properties of the deceased were retrieved from the residence of Defendant Rita Mamie Wuo at her residence in Dingama Town by the police such as:-
  1. One Samsung Tab A6, black in colour
  2. One Techno y6 phone, black colour
  3. One Sunny DVD Player, black colour
  4. One HP Laptop & charger, black colour
  5. Three (3) bottles of wine (Nederbrg, Frontera & half
  6. Two (2) body powder (White Amens & Orange body powder)
  7. Soft soap (Fresh & Glow)
  8. Eucerin Cream, white colour
  9. Three parts of best view (Brillen Putztucher & half).....

Believing it probable that he is rendering aid to a person who tends to commit a crime, engages in conduct which provides such person with means or opportunity for the commission thereof and which in fact aids such person to commit a felony. This action does not to a person who is either expressly or by implication made not accountable by the statute defining the felony facilitated or related statutes.

2. **Defense precluded.** It is no defense to a prosecution under this section that the person whose conduct the defendant facilitated has been acquitted, has not been prosecuted or convicted, of a different offense is immune from prosecution, or for some other reason cannot be brought to justice.

3. **Grading.** Facilitation of a felony of the first degree is a felony of the second degree. Facilitation of the second degree or felony of the third degree is a misdemeanor of the first degree.

AND THE GRAND JURORS AFORESAID, UPON THEIR OATH OFFORESAID DO PRESENT THAT, THE HEREIN MENTIONED DEFENDANTS COMMITTED THE CRIME OF CRIMINAL CONSPIRACY, MURDER, TAMPERING WITH PHYSICAL EVIDENCE AND CRIMINAL FACILITATION, CONTRARY TO THE FORM, FORCE AND EFFECT OF THE STATUTORY LAWS OF THE REPUBLIC OF LIBERI. IN SUCH CASES MADE AND PROVIDED AGAINST THE PEACE AND DIGNITY OF THE SAID REPUBLIC.

REPUBLIC OF LIBERIA....PLAINTIFF  
 BY AND THRU MINISRY OF JUSTICE  
 CLLR. HECTOR W. QUOGUOAH  
 COUNTY ATTORNEY NIMBA COUNTY

**WITNESS:**

**ADDRESS**

- |                              |                        |
|------------------------------|------------------------|
| 1. Henry W. Hodge.....       | NASSCORP, Ganta City   |
| 2. Frank K. Ben.....         | Coroner Chairman/Ganta |
| 3. Arthur S. Gehmuson.....   | Ganta City             |
| 4. C/Insp. James Kartoe..... | Nimba County           |
| 5. Redeemer J. Toe.....      |                        |
| 6. Felix Smith.....          |                        |

**PHYSICAL & DOCUMENTARY EVIDENCE**

1. Police charge sheet
2. Suspect's statements
3. Prosecutory Summary
4. Victim's Sim Card No. 0888-265-746
5. Coroners' Report
6. Suspect's Consent Form
7. Victim's photos
8. Forensic Request Form
9. Listing of Victim's properties retrieved from Rita Mamie Wuo
10. Rita Mamie Wuo's statement

FINDING: TRUE BILL/BILL OF IGNORANMUS  
 SIGNED: NEKAWON BOLLIE  
 FOREMAN. GRAND JURY

DATE: MAY 2017  
 FILED THIS 21<sup>ST</sup> DAY OF MAY A.D. 2017

ARTHUR G. GAYE  
 CLERK OF COURT"

Prior to their arraignment for a plea, the defense counsel requested for a change of venue citing local prejudice. The assigned judge heard arguments on this motion, granted same and ordered the case transferred to the Seventh Judicial Circuit for Grand Gedeh County. At the Seventh Judicial Circuit presided over by the Resident Circuit Judge, His Honor George S. Wiles, Jr. presiding by assignment, the prosecution filed an application for severance of the appellants from the other defendants charged by the indictment which the court granted since it was unopposed by the appellants.

The defense counsel also applied to the court for a transcript of the Grand Jury hearing which application the prosecution objected to and the court denied. The court arraigned the appellants and they entered a plea of not guilty. The court thereafter impaneled the trial jury on November 26, 2018, and the trial commenced with the production of witnesses by the parties.

The prosecution produced the following witnesses: the Chief Inspector, Mr. James Kartoe and Detective Redeemer J. Toe of the Nimba County Detachment, Liberia National Police respectively, Nimba County Coroner, John M. Gono, and fiancée of co-appellant Exodus Wamah, Ms. Rita Mamie Wuo and Latoe Campbell, the son of the victim, Ms. Thompson, testified as general witnesses; while Detective Armstrong P. Wonneh of the Nimba County Police Detachment, Ex-fiancée of co-appellant Wamah, Ms. Cecelia Thompson, and Rita Mamie Wuo as the rebuttal witnesses. The testimonies of the witnesses for the prosecution and documentary evidence adduced during the trial tend to establish that because Ms. Thompson had not reported to work for five days, the Regional Director of her Office, Mr. Henry Hodge, dispatched an aid to the victim's house to inquire as to why she had not reported to work from March 10 to March 14, 2017; that based upon the report of the aid that the victim's house was closed, Mr. Hodge notified the police of the unexplained absence of the victim from work for the period; that the police dispatched officers to the victim's home and they found the doors locked and smelling foul scent coming out of the house, sought their regional office permission and proceeded to forcefully opened the door; that the police discovered the body of Ms. Thompson lying naked in a pool of blood in her room, and the decaying body of her 13 years old ward, Annie Moore Johnson, forced face down in a barrel of water with hands tied behind her back; that the room of the victim was ransacked

with items including the victim's phone missing; that the County Coroner constituted a 15-man coroner jury who found that victim Thompson's neck was broken; that during the investigation police called the victim's number which was answered by co-appellant Justice Dolo, Jr.; that after several attempts to have co-appellant Dolo apprehended so as to aid the police in their investigation, he was finally arrested on March 19, 2017; that prior to his arrest, he informed the police via telephonic conversation that victim Thompson was aunt and that she gave him her phone. However during investigation, he told the police that the phone was given to him by one Emmanuel and two other persons who hired his services as a motorcyclist on the night of March 10, 2017 to transport them to a location around the Jackey Hotel in Ganta City for fuel, which location is nearer to the victim's house; that co-appellant Justice Dolo, Jr. also informed the police that when he conveyed Emmanuel and the two others around the Jackey Hotel, they returned with a big black bag containing items other than fuel and that he dropped them at different locations in Ganta; that because Emmanuel and the others could not pay him his full fare, they gave him five hundred Liberian Dollars (L\$500.00) and the phone, and asked him to deliver it to a certain money changer to receive the balance of his fare; that co-appellant Dolo led the police to the arrest of Emmanuel and the money changer, both of whom were preliminarily investigated by the police and released without charge at the time.

Additionally, the evidence of the prosecution show that based on intelligence, the police arrested co-appellant Exodus Wamah who had a relationship with victim Thompson; that co-appellant Wamah told the police that his relationship with the victim ended in October 2016 and that there had been no contact between them since that time; that the police initially released co-appellant Wamah, but that after a review of the call log of the victim's contact number which showed that co-appellant Wamah made the highest number of calls to the victim on the night of March 10, 2017, the police subsequently re-arrested him; that further investigation showed that contrary to co-appellant Wamah's assertion that he did not leave Sanniquellie on March 10, 2017, he in fact traveled from Sanniquellie to Ganta on the evening of March 10, 2017; that on March 12, 2017, co-appellant Wamah gave a black Techno phone and a DVD player to his fiancée of Sanniquellie, Rita Mamie Wuo, as gifts for her and that he told her that his boss gave him the money to buy the items for her ahead of their wedding.

As to the appellants, two general witnesses and two subpoenaed witnesses testified on their behalf as follows: the two appellants and Oveda Teta Wallace, an employee of Lonestar Cell MTN and Moses C. Gbenyan, II, the Superintendent of the Grand Gedeh Police Detachment.

Even though the appellants were charged and tried together, co-appellant Wamah interposed a separate and distinct defense. He interposed an *alibi* that on the night of March 10, 2017, he was at home in Sanniquellie and did not travel to Ganta contrary to the testimony of prosecution's witness Rita Mamie Wuo. He however admitted to calling the victim multiple times on the night of March 10, 2017, but testified that he did not have physical contact with her since their relationship ended in October 2016. On the other hand, co-appellant Justice Dolo, Jr., consistently admitted to transporting three persons that night around the home of the victims but denied knowing or having acquaintance with co-appellant Exodus Wamah.

At the conclusion of the production of evidence and after the court charged the petit jury and the petit jury returned a unanimous verdict of guilty as charged. The trial judge affirmed the guilty verdict and adjudged co-appellant Exodus Wamah of the crime of murder and sentenced him to a jail term of 75 years with a possibility of parole for good behavior after serving 40 years in prison. In the case of co-appellant Justice Dolo, Jr., the trial judge adjudged him guilty of criminal facilitation and sentenced him to five years imprisonment.

The appellants entered exceptions on the records to this final ruling of the trial judge and announced an appeal to the Supreme Court assigning fifteen errors for our review. A consideration of the entire bill of exceptions show that it is the position of the appellants that the verdict returned by the trial jury should be set aside and final judgment entered by the judge be reversed on the grounds that the errors enumerated in the bill of exceptions affected the substantial rights of the appellants to justice and a free and fair trial. Succinctly, the bill of exceptions of the appellants can be considered in light of three categories; pretrial objections, trial objections, and post-trial objections. We shall now proceed to consider each of the categories in order to determine whether the act or omission of the court complained of constitutes errors and if so, whether the errors impacted the substantial rights of the appellants or whether it deprives the appellants of a fair and impartial hearing.

Relative to the pre-trial objections, the appellants, in their bill of exceptions, complained that in spite of the appellants' request to the court to have the transcripts of the proceedings before the grand jury made available to them, the trial court denied the said request on the ground that the application by the appellants was interposed for the purpose of delay. The law is clear on the issue of making available the transcript of the testimony taken before a grand jury proceeding to a criminal defendant. At section 15.14(3) of the *Criminal Procedure Law*, it is provided that "the transcript of the testimony taken before a grand jury shall be available to the prosecuting attorney and to a defendant who is indicted". The refusal of the trial judge to grant the defendants access to such transcript especially when so requested is clearly contrary to the language and intent of the statute quoted herein above. The law clearly makes it not only a right of the defendant to be allowed access to the transcript referred to herein, but from all indications the making available to the defendant of the transcript is a part of the trial procedure. We do not see how this procedure can be said to result in a delay of the trial process. We are therefore in agreement with the appellants that the trial judge was in error when he denied the appellants access to the transcript of the grand jury proceedings.

The question that must be answered now is whether the denial by the judge of the appellants' application to make this transcript available to them constitutes error for which this Court may overturn the final ruling entered in this matter by the lower court? Our Criminal Procedural Statute at section 1.3 provides that "no error in either the admission or exclusion of evidence, and no error or defect in any ruling or order or in anything done or omitted by the court by any of the parties is ground for granting a new trial or for setting aside a verdict or acting, modifying or otherwise disturbing a judgment or order, unless refusal to take such action appears to the court inconsistent with substantial justice". A substantial justice is one that is administered fairly according to the rule of substantive law, regardless of any procedural error not affecting the litigant's substantive rights; a fair trial on the merit. *Black's law Dictionary Ninth Edition page 943*. For an appellate court to disturb the final determination entered by a lower court for error, the error must be such that if the said determination is not overturned, substantial justice will be defeated.

As stated earlier, the judge was in error when he denied the application for the transcript of the grand jury to be made available to the appellants. However, short of

the fact that the judge acted in error, neither did the appellants state what injury they suffered as the consequence thereof nor is it apparent from the records that any substantial right of theirs was affected. The indictment had a clear statement of what the appellants are accused of; it contained the names of the witnesses that appeared before the grand jury; and those witnesses testified during the trial. More besides, the appellants had remedy to correct the error committed by the judge which they did not take advantage of. We therefore do not see ourselves justified to disturb the lower court's determination as a consequence thereof.

Regarding the trial objections, we note that the appellants referred to series of objections to questions on the direct and cross examinations which were either sustained or denied by the trial judge as prejudicial to the rights of the appellants and errors for which the unanimous verdict of the trial jury and the final ruling of the trial judge ought to be overturned. Our review of the certified records in light of the *Criminal Procedure Law Revised Code: 2:1.3, supra*, persuade our conclusion that those several evidentiary rulings by the trial judge did not impact the outcome of the trial, considering the evidence adduced, nor did it affect the substantial rights of the appellants to a fair and impartial hearing. Therefore, of the four trial objections assigned by the appellants for review by this Court, we identify the objection raised by the appellants to the competence of the prosecution's fifth witness and the son of victim Thompson, Latoe Campbell, to testify to the items retrieved from Rita M. Wuo, prosecution's fourth witness, to be worthy of our examination.

The records show that the appellants' objection to the competence of Latoe Campbell to identify the personal items of his deceased mother was not made at the time of his qualification as a witness. The appellants objected when the prosecution asked the witness if he can identify the personal items owned by his deceased mother. The trial judge, overruled this objection. It is the contention of the appellants that the witness, not being a resident of Ganta where his deceased mother lived and worked, but rather a resident of Monrovia, he was too remote and therefore could not be the best evidence to identify his deceased mother's personal items.

Our review and examination of the records show that witness Campbell did not only testify to his proximity to his deceased mother in terms of regular visitations and intimacy, but also that he had encountered co-appellant Exodus Wamah at his deceased mother's home in Ganta about a year prior to her gruesome murder.

We cull from the records the following testimony of witness Latoe Campbell as follows:

“This is the tablet that my mother used whenever she came from work and [I] always saw her using it; I know this phone very well because I used the phone at the time she was alive; this is the DVD player sent by my sister, Ayee Williams in America which was with my mother and myself used to watch movies on it; and whenever I was with my mother; this is her lap-top and the bag which is one of the first thing she put into her car whenever she [is] ready to go to work. And I personally handle[d] the lap-top [on] several occasions and I am sure this [is] her lap-top”.

...”At the time I received the information of the death of my late mother, which I received from my aunty, I was confused and began to reflect on people who visited her home and remembered one of the defendants, Exodus Wamah to be one of the persons who I know went to the [house] one Friday while I was visiting her and [walked] straight into the house without question. And I asked my mother[‘s] ward, who he was, and she told me his name and that he visited the house regularly”...

...”Like I said in my answer to the previous question, he [walked] in the house like he was part of the house, but before the late Annie told me that he had been a regular visitor I asked him outside of the house which he did [not,]and I called my mother and informed her of his visit. She [then] asked me to talk to him. After she spoke with him, he became [furious] and left. The late Annie and myself took it for granted and I jokingly told her suppose he came back for us.”...

Our evidence law provides that “the best evidence which the case admits of must always be produced; that is, no evidence is sufficient which supposes the existence of better evidence.” *Civil Procedure Law Revised Code:1:25.6* In the instant case, this Court says that the test for best evidence in respect of proximity for the purpose of identifying the personal properties of victim Thompson should not be based on whether the witness and the victims lived together in Ganta; rather, the test should be whether the witness is familiar with the victim and the personal properties that are the subjects of identification.

The testimony of witness Latoe Campbell that he regularly visited his mother in Ganta, that he had seen the items said to have been given by co-appellant Wamah to Rita M. Wuo with his mother prior to her murder, and that he had encountered co-appellant Wamah at his deceased mother's home in Ganta in 2016, not having been rebutted by the co-appellant Wamah, convinces this Court that the witness had personal knowledge of victim Viola R. Thompson's home and personal effects. Therefore, we hold that the judge did not err when he allowed the witness to identify the personal properties of victim Thompson.

With regard to the post-trial objections, the appellants contend that the trial judge and the petit jury failed to recognize the inconsistency in the testimonies of the prosecution's witnesses as to the date co-appellant Wamah returned to Sanniquellie after he allegedly traveled to Ganta on the night of March 10, 2017; and that the trial judge misinterpreted and misapplied the concept of reasonable doubt. We shall endeavor to consider these post trial objections in the order as presented.

On the issue of the whereabouts of co-defendant Wamah on the night of March 10, 2017, a review of the certified records show that Rita M. Wuo testified that co-appellant Wamah left the City of Sanniquellie for the City of Ganta on the evening of March 10, 2017, and returned to Sanniquellie on the morning of March 12, 2017, with wedding gifts. However, prosecution first witness, James Kartoe, had earlier testified that the police had received intelligence that co-appellant Wamah, after the commission of the murder in Ganta on the night of March 10, 2017, returned to Sanniquellie on the same night. The appellants argued that the two statements present a contradiction that creates reasonable doubt for which the appellants are entitled to acquittal.

Considering the evidence on this matter, the witnesses are all in agreement that co-appellant Wamah left Sanniquellie for Ganta during the evening of March 10, 2017. They are however, not in agreement as to when he returned from Ganta to Sanniquellie. We observe that the source of the police intelligence and witness Rita M. Wuo do not live together, and they definitely were not together when they saw co-appellant Wamah leaving for Ganta and when he returned from Ganta. More besides, the unrebutted testimony of witness Rita M. Wuo is that she and co-appellant Wamah live together in a rented room in Sanniquelle and as such her knowledge of co-appellant Wamah's return is when he returned to their mutual home. It is possible that co-appellant Wamah could have returned to Sanniquellie

and did not get home to Rita M. Wuo and as such Rita M. Wuo could not know of his return until he got home on March 12, 2017. This raises an issue of fact. The case been one that was tried by a jury, it is the office of the jury to weigh the evidence and determine the credibility of witnesses. The trial judge is to determine the sufficiency of the evidence to have it presented the jury.

It is settled in this jurisdiction that the trier of facts is the judge of the weight and worth of the evidence and the credibility of witnesses. The sufficiency of evidence to prove the guilt, or any evidentiary fact looking thereto, is a matter within the province of the jury. *Living Counsellor et al v. R. L., Supreme Court Opinion, October Term, A. D. 2008, Ishmael Kamara v. R. L., Supreme Court Opinion, October, A.D. 2021* While the testimonies of the prosecution's two witnesses would appear a contradiction and variance on its face, considering the law extant and the fact that the evidence adduced by the prosecution was legally laid before the petit jury with authority to weigh and give credence to each piece of evidence, we are not inclined to disturb the findings the petit jury in this regard.

Finally, the appellants have assigned as an error the trial judge's final ruling that "in examining the evidence after hearing, it is [not necessary] that the jury should believe a particular witness beyond all reasonable doubts, but it is a [necessary] that in view of the testimonies (of all the witnesses) the jury believes (convince) beyond all reasonable doubts that the defendant is guilty". They argue that this holding of the trial judge contradicts the doctrine of the reasonable doubt.

A reasonable doubt is that which "prevents one from being firmly convinced of a defendant's guilt or the belief that there is a real possibility that a defendant is not guilty... It is that state of the case which after the entire comparison and consideration of all of the evidence, leaves the minds of jurors in that condition that they cannot say they feel an abiding conviction to a moral certainty, of the truth of the charge." *Black's Law Dictionary, Ninth Edition at page 1380* So, for the petit jurors to have reached a moral certainty as to the truth of the charge levied against the criminal defendant, they must consider the totality of the evidence placed before them and assigned credibility or worth to each piece of the evidence. *Living Counsellor et al v. R. L., Supreme Court Opinion, October Term, A. D. 2008, Ishmael Kamara v. R. L., Supreme Court Opinion, October, A.D. 2021, supra*

In the instant case, the trial judge held that the petit jurors need not believe a particular witness beyond a reasonable doubt, but that they must consider the whole of the evidence. To our mind, the judge's interpretation of the doctrine bear semblance of all juridical elements for the conviction of the appellants. *Bestman v. R. L.*, Supreme Court Opinion, October Term, A.D. 2012, *Corneh et al v. R. L.* Supreme Court Opinion, March Term, A.D. 2014, *Williams v. R. L.* Supreme Court Opinion, March Term, A.D. 2014, *Yeakula et al v. R. L.*, Supreme Court Opinion, October Term, A.D. 2014, *Samukai et al v. R. L.* Supreme Court Opinion, October Term, A.D. 2020.

But the appellants contend that the prosecution's evidence failed to link them to the murder of the victims. However, we have determined that the appellants were linked to the crimes by the prosecution showing that the victims were murdered at their home on the night of March 10, 2017; that the crime scene indicated a murder and theft of the personal properties of the victims; and that the personal properties including sim card, smart phone, DVD player and lap-top computer were discovered in the possession of the appellants; that the tracing of the victim's contact number or sim card led to the arrest of co-appellant Justice Dolo, Jr. who attempted flight on two occasions; that based on police intelligence co-appellant Exodus Wamah was arrested; that the said co-appellant Wamah initially told the police that he ended his relationship with victim Thompson since October 2016 and had not been in contact with her since that time; but that a subpoenaed call log established that the said co-appellant Wamah was in communication with the victim on the night of March 10, 2017; that the said co-appellant registered the highest number of calls with victim Thompson on that night; that the said co-appellant Wamah's fiancée told the police and the court that he traveled to Ganta on the evening of March 10, 2017 and returned on March 12, 2017 with gifts for her confirmed to be personal properties of victim Thompson; that co-appellant Wamah's *alibi* that he did not leave Sanniquellie for Ganta on March 10, 2017 and that he was home was not substantiated by the testimony of any other witnesses, especially considering the unrebutted testimony of the State's witness Wuo who testified that she and co-appellant Wamah live together and who also testified that co-appellant Wamah left their mutual home on March 10, 2017 for Ganta and returned March 12, 2017.

If, according to co-appellant Wamah's testimony, this testimony of witness Wuo was not true, the burden shifts to co-appellant Wamah to produce evidence to

substantiate his allegation. It is the law in this jurisdiction that the burden of proof rests on the party who alleges a fact. *Civil Procedure Law Revised Code:1:25.5* In the instant case, it is co-appellant Wamah who alleged that he never left Sanniquellie, that he was at home and that he never traveled to Ganta on March 10, 2017. The onus was upon him to produce evidence to substantiate this averment. Having failed to so do and in the face of witness Wuo testimony, the finding of the petit jury to contrary, in the instant case, cannot and ought not be disturbed.

This Court is of the considered opinion that the link-by-link connection of the prosecution's evidence irresistibly leads to a reasonable belief that the appellants are guilty of the offenses charged in the indictment for murder of the victims and criminal facilitation. *Davis v. R. L. 40 LLR 659, Winifred Mason et al v. R. L., Supreme Court Opinion, October Term, A.D.2021*

We note that the trial in his final ruling sentenced co-appellant Wamah to 75 years imprisonment with the possibility of parole giving good behavior after 40 years in prison, and co-appellant Dolo for five years for criminal facilitation. Our review of the law shows murder is a first degree felony and a person convicted may be sentence to death or life imprisonment as provided in sections 50.5 and 51.3. *Penal Law Revised Code:26.14.1* Reading section 50.5,*id*, in conjunction with section 51.3, *id*, a person convicted of murder in the manner and form portrayed by this case may be sentenced to death or life imprison. Consequently, the trial judge was in error when he sentenced co-appellant Wamah to 75 years in prison which is outside the pale of the law. The said sentencing ruling of the trial judge is therefore hereby modified and co-appellant Wamah is sentenced to life imprisonment.

As regard co-appellant Justice Dolo, Jr., the trial judge sentenced him to five years imprisonment for the commission of the crime of criminal facilitation. Criminal facilitation, originally a third degree felony, was downgraded during the reclassification of crimes as a misdemeanor. *An Act to Amend Title 26 of the Liberian Code of Laws Revised, Penal, Chapter 50 Relating to Sentencing and Related Matters (2013)* The trial judge was also in error when he sentenced co-appellant Dolo to five years imprisonment. The said sentencing ruling of the trial judge is also hereby modified and co-appellant Dolo is sentenced to one year imprisonment.

WHEREFORE AND IN VIEW OF THE FOREGOING, the final ruling of the trial court is affirmed, however with modification that Co-appellant Exodus Waman be, and is hereby sentenced to life imprisonment. Co-appellant Justice Dolo, Jr. is sentenced to one year imprisonment. We note that in the case of Co-appellant Justice Dolo, Jr., he has remained in pre-trial detention for more than four years, therefore, he is hereby ordered released from further detention forthwith and without day. The Clerk of this Court is ordered to send a mandate to the trial court to resume jurisdiction over this case and enforce the Judgment of this Opinion. AND IT IS HEREBY SO ORDERED.

When this case was called for hearing, Counsellor James C. R. Flomo appeared for the appellants. Counsellor Wesseh A. Wesseh, Assistant Minister for Litigation, Ministry of Justice, appeared for the appellee.